

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

PEEKAY, INC.,

Plaintiff,

v.

CITY OF LACEY,

Defendant.

CASE NO. C03-5664RSM

ORDER DENYING MOTION FOR
RECONSIDERATION

This matter comes before the Court on plaintiff's Motion for Reconsideration. (Dkt. #74). Plaintiff asks this Court to reconsider its previous Order granting in part and denying in part defendants' motion for summary judgment, wherein the Court dismissed plaintiff's First Amendment claims. (*See* Dkt. #73). Plaintiff argues that, in so ruling, the Court may have failed to recognize its arguments pertaining to the First Amendment issue.

Having reviewed plaintiff's motion (Dkt. #74), and the remainder of the record, this Court hereby finds and ORDERS:

(1) Plaintiff's Motion for Reconsideration (Dkt. #74) is DENIED. As plaintiff has already recognized in its motion, by local rule, motions for reconsideration are disfavored, and the Court will ordinarily deny such a motion in the absence of "a showing of new facts or legal authority which could not have been brought to its attention earlier with reasonable diligence."

1 W.D. Wash. Local Rule CR 7(h).

2 In its motion for reconsideration, plaintiff essentially reiterates the same legal arguments
3 previously presented to this Court. The Court fully considered those arguments at the time it
4 decided defendants' motion for summary judgment. While plaintiff notes that, in its previous
5 Order, the Court stated "[p]laintiff has failed to address this argument in its opposition," plaintiff
6 mistakenly believes that the statement meant the Court failed to recognize any of plaintiff's First
7 Amendment arguments. (*See* Dkt. #73 at 8). That is not the case. Rather, the Court was
8 simply highlighting that plaintiff had not specifically addressed defendant's argument that the
9 First Amendment does not prohibit the regulation of non-expressive products. (Dkt. #73 at 8).

10 The ultimate basis for the Court's decision that plaintiff had failed to demonstrate a
11 genuine basis for its First Amendment claims was its agreement with defendants that the City of
12 Lacey did not classify plaintiff's business on any expressive component of its merchandise, and
13 therefore, the First Amendment was not implicated by the denial of the business license. In
14 coming to that conclusion, the Court fully considered plaintiff's arguments, and examined the
15 factual record presented on summary judgment. Those are the same arguments and facts
16 presented in plaintiff's motion for reconsideration. Accordingly, plaintiff has not persuaded the
17 Court that it should reconsider its previous Order.

18 (2) The Clerk shall forward a copy of this Order to all counsel of record.

19 DATED this 25 day of April, 2005.

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22 RICARDO S. MARTÍNEZ
23 UNITED STATES DISTRICT JUDGE
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